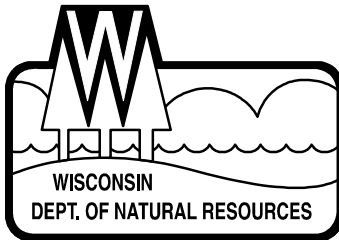


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## **State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES**

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### **Testimony of Secretary Scott Hassett November 16, 2004, Joint Committee on Audit Air Management Program Audit Follow-up**

Good afternoon. I would like to thank Senator Roessler and Representative Jeskewitz for inviting me to be here today. Lloyd Eagan, our Air Management Bureau Director, is with me to answer any technical questions you may have. I appreciate the opportunity to provide an update on my department's progress at addressing the audit recommendations for the air management program. Successfully addressing audit report recommendations will go a long way to meeting other important responsibilities we currently face. These include implementing 2003 Wisconsin Act 118, supporting the Governor's Grow Wisconsin Initiative and responding to USEPA's Notice of Deficiency on our federal permit and compliance programs. We are working to address these responsibilities and I believe we have made good progress.

#### **Progress on Major Audit Report Recommendations**

The Audit Report made several recommendations to the Department. When I testified before your committee in May, I agreed with many of the recommendations in the Audit. We have been working diligently to implement those recommendations.

##### **1. Further Streamline the Operation Permit Program & Improved Program Management**

- When I began as Secretary we had a backlog of 342 Federal Operations Permits. We are on track to eliminate this backlog next month. By the beginning of 2004, we had already reduced the backlog to 148 permits. Of that remaining backlog, we have issued 87 final permits. The remaining 61 are in public comment or under EPA review. Because of the expedited review process now in place with EPA, we will have all remaining federal operation permits issued by the end of this calendar year.
  - We were able to accomplish this by eliminating or reducing certain air management program activities and redirecting the resources to this work. (read if necessary)

- Eliminated activities – biomonitoring, 17 ambient monitoring sites, visible emissions school, climate-change policy analysis (global warming & greenhouse gases) and forecasting particle pollution levels.
  - Reduced level of effort – small source compliance and enforcement, non-Title V complaint follow-up, mercury modeling & policy analysis, ozone policy analysis, air toxics policy analysis, stack emission testing and asbestos.
  - Our progress on eliminating the backlog of federal operation permits has allowed us to redirect resources to focus on permit streamlining activities, the backlog of other operation permits and permit renewals.
- Our streamlining plan includes replacing the individually negotiated permit approach with simplified permits (registration and general permits) for smaller sources with fewer emissions. Since I last appeared, we have completed public hearings on draft rules to implement the expanded use of general permits and establish registration permits. Rules for adoption of these approaches will be developed next spring.
  - We are also developing a proposal to expand permit exemptions for smaller sources.
  - We will provide the legislature recommendations for a consolidated permit next spring. A consolidated permit would combine the functions of operation permits and construction permits.

## 2. Consistency & Ensuring Facilities Apply for Renewal Operations Permits

- We are actively reviewing past records to determine if there are facilities that lack operation permit applications. After an initial review this fall, we will continue with quarterly reviews of records to ensure operation permit applications are being received and that emission fee bills are accurate. By the end of the year we will have a list of all the federally enforceable operations permits. Emission fee bills that will be sent out in January will have the benefit of this review.
- We will establish a permit renewal notification system before the end of the calendar year. This will improve the timeliness of permit renewal applications. The permit renewal notification is the initial piece of a comprehensive permit notification system that we are developing as part of our air permit improvement initiative.

## 3. Improve the Facility Inspection Process

- We have issued new guidance for inspectors and managers related to our federal inspection commitments. We have improved the inspection tracking system. Air program managers review inspection performance on a quarterly basis to ensure that goals are being achieved. This effort has paid off. In FY'04 the Air Management Program surpassed our federal inspection commitment by completing 30 additional inspections of facilities on the federal inspection inventory.

### **Implementing 2003 Wisconsin Act 118**

In addition to the consolidated and registration permit issues mentioned earlier, the Department has also successfully implemented new statutory provisions to streamline the air permit program. This includes providing permit applicants the ability to appeal compliance monitoring requirements and challenge certain permit conditions without delaying the start of construction.

- So far we have received five requests for start of construction waivers. We granted three, denied one and the remaining request was withdrawn by the company.
- We have established procedures for the monitoring requirement appeal process that ensures responses in 30 days. To date we have provided timely response to four appeals.

### **EPA's Notice of Deficiency**

EPA's Notice of Deficiency is a related issue I should touch on. As you know, in February 2004, EPA issued a Notice of Deficiency for Wisconsin's Title V permit program. We must address these deficiencies by March 4, 2006 or face the possibility of sanctions. Sanctions include EPA assuming responsibility for the operation of the federal program, a reduction in federal highway funds, and more stringent requirements for industry in our ozone nonattainment counties.

In order to avoid sanctions we need to:

- Demonstrate that we have adequate funds to run a balanced air management program.
- Issue all federal operation permits by 12/31/04.
- Issue all federally enforceable state operation permits by 3/4/06.
- Address several technical statutory issues.

Recently, EPA has also notified the Department that it needs to document its ability to fund the non-Title V portions of its program. The Department firmly believes that it has and can justify sufficient funding for the Title V program. However, the Department is analyzing whether it has a sufficient fee structure to support the state portion of the program and may request fees to address this NOD-related issue. In striking this balance, however, the Department will not increase the overall fee burden to Wisconsin's industries.

We have made significant progress addressing the NOD. As indicated, we are on target to meet the deadline for issuing operations permits. We are working cooperatively with EPA and intend to demonstrate that after permit streamlining is fully implemented, we will have adequate resources to operate a balanced air management program.

### **Status of Air Permit Program Streamlining Efforts**

Implementing permit streamlining is the key to addressing many of the issues that we are facing. Our streamlining approach goes beyond improving our ability to respond and act quickly to permit applications. We are also dedicated to having a permitting system that is consistent and reliable for all – the public, business and DNR employees.

In September 2004, in addition to our audit report update, we also provided the legislature our *Report on Air Permit Streamlining Efforts*.

- This report was the product of an extensive period of collaboration with stakeholders that commenced in June 2003.
- It presents a road map of our permit streamlining actions including how the permit program will be changed and the schedule for development and implementation of these changes.
- The report includes additional activities we are proposing to provide a more efficient permit system while ensuring that our streamlined permitting efforts provide equal or better environmental protection.
  - Electronic submittal of permit applications
  - More accurate and timely tracking of who submits or should submit application and the progress of each review
  - Determination of which facilities and projects should be exempt from permits
  - Timely notification and follow through of permit renewals
  - One accomplishment so far, we have completed a successful migration of the existing permit database to Oracle

**What is necessary for continued progress?**

- First, expeditious legislative review of permit streamlining statutory changes and administrative rules. The first two in the upcoming session for your consideration will be statutory changes for the consolidated permit program and the registration and general permit rule.
- Second, the development of an IT-based permit system and upgrade of our data management systems. This system is critical to our streamlining efforts. It will significantly: reduce permit processing time, improve the consistency of permitting decisions across the state, and increase facility's knowledge of permit requirements and permit status.

Thank you for the opportunity to testify today. Lloyd and I are happy to respond to any questions you may have.